

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Genevieve Lamont	Team: Squad #03	CCRB Case #: 202005916	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 5:25 PM, Saturday, 05/30/2020 10:00 PM, Tuesday, 03/02/2021 12:00 AM, Friday, 03/26/2021 12:00 AM	Location of Incident: Bedford Avenue and Tilden Avenue Bedford Avenue and Church Avenue Civilian Complaint Review Board	18 Mo. SOL 5/4/2022	Precinct: 70		
Date/Time CV Reported Thu, 08/27/2020 6:00 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 08/27/2020 6:00 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Yaroslav Kavka	26807	968532	061 PCT
2. An officer			
3. Officers			
4. COD Terence Monahan	00000	876747	CD OFF
5. POM Salvatore Annunziata	15854	961491	070 PCT
6. PO Tyler Bradshaw	02855	963411	070 PCT
7. POM Anthony Carolei	11381	961670	070 PCT
8. POM Mateusz Wybraniec	07999	966402	BKLN CT
9. POM Michael Haber	11401	955967	071 PCT
10. SGT Fitzroy Vigilance	04583	918667	MAN CT
11. AC Brian Conroy	00000	875187	PBBS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andrae Fernandez	28309	945713	H BKLYN
2. SGT John Velez	03819	940832	070 PCT
3. POM Michael Bresnahan	9357	952489	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Yaroslav Kavka	Force: On March , 2021, Police Officer Yaroslav Kavka struck § 87(2)(b) with a baton at Bedford Avenue and Tilden Avenue in Brooklyn.	
B. An officer	Force: An officer used physical force against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.	

Officer(s)	Allegation	Investigator Recommendation
C. Officers	Force: Officers used physical force against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.	
D. An officer	Force: An officer struck § 87(2)(b) with a baton at Bedford Avenue and Tilden Avenue in Brooklyn.	
E. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.	
F.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of force against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.	
G.AC Brian Conroy	Force: Assistant Chief Brian Conroy used physical force against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.	
H.POM Salvatore Annunziata	Force: Police Officer Salvatore Annunziata used physical force against an individual at Bedford Avenue and Tilden Avenue in Brooklyn.	
I.PO Tyler Bradshaw	Force: Police Officer Tyler Bradshaw used physical force against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.	
J.POM Michael Haber	Force: Police Officer Michael Haber used physical force against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.	
K.POM Anthony Carolei	Force: Police Officer Anthony Carolei used pepper spray against individuals at Bedford Avenue and Tilden Avenue.	
L. Officers	Force: Officers used physical force against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.	
M. An officer	Force: An officer used pepper spray against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.	
N. Officers	Force: Officers used pepper spray against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.	
O. An officer	Force: An officer used physical force against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.	
P. An officer	Force: An officer used physical force against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.	
Q. An officer	Force: An officer used pepper spray against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.	
R. An officer	Force: An officer used pepper spray against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.	
S. Officers	Force: Officers used physical force against § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.	
T. Officers	Force: Officers used physical force against § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.	
U.POM Mateusz Wybraniec	Force: Police Officer Mateusz Wybraniec used physical force against § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.	
V.POM Anthony Carolei	Force: Police Officer Anthony Carolei used physical force against § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.	
W.POM Anthony Carolei	Force: Police Officer Anthony Carolei used a chokehold against § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.	

Officer(s)	Allegation	Investigator Recommendation
X.POM Mateusz Wybraniec	Force: Police Officer Mateusz Wybraniec used physical force against § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.	
Y.POM Anthony Carolei	Discourtesy: Police Officer Anthony Carolei spoke discourteously to § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.	
Z. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.	
2A.POM Anthony Carolei	Abuse: Police Officer Anthony Carolei did not obtain medical treatment for § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.	
2B.POM Mateusz Wybraniec	Abuse: Police Officer Mateusz Wybraniec did not obtain medical treatment for § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.	
2C.POM Mateusz Wybraniec	Abuse: Police Officer Mateusz Wybraniec threatened § 87(2)(b) with the use of force at Bedford Avenue and Church Avenue in Brooklyn.	
2D.POM Mateusz Wybraniec	Abuse: Police Officer Mateusz Wybraniec refused to provide his shield number to § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.	
2E.SGT Fitzroy Vigilance	Force: Sergeant Fitzroy Vigilance used physical force against an individual at Bedford Avenue and Tilden Avenue in Brooklyn.	
2F.SGT Fitzroy Vigilance	Discourtesy: Sergeant Fitzroy Vigilance spoke discourteously to individuals at Bedford Avenue and Tilden Avenue in Brooklyn.	
2G.POM Yaroslav Kavka	Untruthful Stmt.: On March 2, 2021, Police Officer Yaroslav Kavka provided a false official statement to the CCRB.	
2H.POM Anthony Carolei	Untruthful Stmt.: On March 26, 2021, Police Officer Anthony Carolei provided a false official statement to the CCRB.	

Case Summary

On August 27, 2020, § 87(2)(b) filed the following complaint with the CCRB by phone.

On May 30, 2020, at approximately 5:25 p.m., § 87(2)(b) attended the 2020 Police Brutality protest at Bedford Avenue and Tilden Avenue in Brooklyn, with her friend, § 87(2)(b). While at the protest, PO Yaroslav Kavka of the 61st Precinct struck § 87(2)(b) in the face with his baton, causing an injury on her lip (**Allegation A: Force**; § 87(2)(g), § 87(2)(b) and § 87(2)(b) remained with the protest; during which, an officer pinned § 87(2)(b) to the ground with her baton and another officer pushed § 87(2)(b) with his baton (**Allegations B and C: Force**; § 87(2)(g). Another individual, § 87(2)(b) was also in the vicinity, and was struck in her forearm by an officer's baton (**Allegation D: Force**; § 87(2)(g). Body-worn camera footage (BWC) also captured an unknown officer telling a protester, "I don't give a fuck" (**Allegation E: Discourtesy**; § 87(2)(g).

It was determined that Chief Terence Monahan and Assistant Chief Brian Conroy were also at Bedford Avenue and Tilden Avenue during the protest and were responsible for directing officers to clear protesters off the street (**Allegations F and G: Force**; § 87(2)(g). PO Salvatore Annunziata, PO Tyler Bradshaw, and PO Michael Haber from the 70th Precinct and 71st Precinct, respectively, pushed multiple protesters with their batons (**Allegations H through J: Force**; § 87(2)(g). Footage also captured PO Anthony Carolei of the 70th Precinct pepper spraying members of the crowd (**Allegation I: Force**; § 87(2)(g).

§ 87(2)(b) remained at the protest around Bedford Avenue and Tilden Avenue, where, between 7:30 p.m. and 10:00 p.m., she was pepper sprayed twice, pushed to the ground by an officer, and observed various officers pushing and grabbing other protesters (**Allegations L through Q: Force**; § 87(2)(g). § 87(2)(b) also encountered § 87(2)(b) during this time, who told her that he had been pepper sprayed by an officer (**Allegation R: Force**; § 87(2)(g). Later, § 87(2)(b) observed § 87(2)(b) be taken to the ground by an officer, whom she believed to be a lieutenant, and arrested at Bedford Avenue and Church Avenue in Brooklyn (**Allegation S: Force**; § 87(2)(g). § 87(2)(b) also alleged that, while he was on the ground, officers kicked and stomped on him (**Allegation T: Force**; § 87(2)(g).

After § 87(2)(b) was handcuffed, he was escorted to a transport van by PO Carolei and PO Mateusz Wybraniec of the 70th Precinct, who took him to the ground in the process of escorting him (**Allegations U and V: Force**; § 87(2)(g). While on the ground, PO Carolei placed his hand on § 87(2)(b) neck, while PO Wybraniec held his legs down (**Allegations W and X: Force**; § 87(2)(g). At one point, § 87(2)(b) kicked PO Wybraniec in his head, to which PO Carolei responded, "Get us fucking out of here man" (**Allegation Y: Discourtesy**; § 87(2)(g). During this, an officer said, "Stop fucking moving" to § 87(2)(b) (**Allegation Z: Discourtesy**; § 87(2)(g).

Once § 87(2)(b) was secured, PO Carolei and PO Wybraniec then picked him up and walked him towards the transport van. During this, § 87(2)(b) repeatedly asked the officers for medical attention (**Allegations AA and AB: Abuse of Authority**; § 87(2)(g). Once they arrived at the transport van, § 87(2)(b) PO Carolei and PO Wybraniec waited outside, during which PO Wybraniec told § 87(2)(b) "You want to go back on the ground?" (**Allegation AC: Abuse of Authority**; § 87(2)(g). § 87(2)(b) asked PO Wybraniec for his shield number, which he refused to provide (**Allegation AD: Abuse of Authority**; § 87(2)(g). § 87(2)(b) was eventually removed to Brooklyn Central Booking, for which he received a desk appearance ticket for his arrest.

BWC footage received by the investigation also shows Sgt. Fitzroy Vigilance pushing several unidentified protesters at Bedford Avenue and Tilden Avenue, as well as using discourteous language (**Allegations AE and AF: Force and Discourtesy**; § 87(2)(g) [REDACTED]).

It was determined that, during their respective CCRB interviews, PO Kavka and PO Carolei both made false official statements (**Allegation AG and AF: Untruthful Statement**; § 87(2)(g) [REDACTED]).

Multiple BWC videos were received by the investigation for officers stationed at Bedford Avenue and Tilden Avenue, as well as at Bedford Avenue and Church Avenue [BR01 and BR02]. § 87(2)(b) [REDACTED] provided the investigation with a brief cellphone video she took at the protest [BR03].

Findings and Recommendations

Allegation (A) Force: Police Officer Yaroslav Kavka struck § 87(2)(b) [REDACTED] with a baton at Bedford Avenue and Tilden Avenue in Brooklyn.

§ 87(2)(b) [REDACTED] testified that she arrived at the 2020 Police Brutality Protest at approximately 5:25 p.m. with § 87(2)(b) [REDACTED]. She was standing on Bedford Avenue, at the front of the crowd, after marching from Tilden Avenue. She was standing in the front of a group of about 200 people; they had been instructed to stand to the side to let the officers move past them but had been issued no other instructions. Officers walked down the street, equipped with riot gear, while the protesters yelled, chanted, and booed them. § 87(2)(b) [REDACTED] stated that the protesters were only engaging the officers verbally, and that no physical actions were taken by the protesters against the officers. A second or third group of officers passed § 87(2)(b) [REDACTED] area, and she leaned forward to see them. At around this time, PO Kavka approached her very quickly. § 87(2)(b) [REDACTED] believed he did this in response to something she said but did not recall specifically what statements she was making. PO Kavka approached her “baton-first”, holding it with two hands, hitting her nose and mouth region with a “very blunt force”. § 87(2)(b) [REDACTED] did not have any conversation or interaction with him prior to this. § 87(2)(b) [REDACTED] did not make any physical contact with PO Kavka before he hit her. She fell back from the force; she was not sure how far she fell back, as she slightly blacked out because of being hit but stated that her head was tilted back by the impact of the hit and that she fell back towards the ground. She did not recall if she hit the ground or if any of the protesters caught her. Immediately after PO Kavka hit her, he went toward Tilden Avenue and left her line of vision. § 87(2)(b) [REDACTED] got up and multiple people around her asked if she was alright. She stated that, at this point, there had been no violence from the protesters. She continued walking down Bedford Avenue toward Tilden Avenue, where she again encountered PO Kavka, standing a couple feet away from her. She asked him why he had hit her and what she had done to warrant such force, but he did not respond to her. Other protesters around her began asking PO Kavka why he had struck § 87(2)(b) [REDACTED] as well and shouted out his shield number. At one point, § 87(2)(b) [REDACTED] took a photograph of PO Kavka, which she provided to the investigation [BR04]. PO Kavka walked away as § 87(2)(b) [REDACTED] and the other protesters were pushed back by the officers, and she did not have any other interaction with him for the duration of the protest [BR05].

§ 87(2)(b) [REDACTED] provided photographs to the investigation of her injured lip [BR06].

§ 87(2)(b) [REDACTED] testified that he was with § 87(2)(b) [REDACTED] walking in a line, when PO Kavka grabbed his baton horizontally with both hands, and struck § 87(2)(b) [REDACTED] in the face. He stated that the group he and § 87(2)(b) [REDACTED] were in were walking in the opposite direction of the officers’ PO Kavka was with, and after striking her, PO Kavka continued walking with the officers. § 87(2)(b) [REDACTED] estimated that there were at least 20 other civilians in the area who witnessed § 87(2)(b) [REDACTED] be hit. He stated this force was “out of the blue”, as they had not been issued any prior instructions by any officers.

He stated that they were yelling chants with “anti-police” sentiments, as they were at a march for police brutality, but that no one in the group he and § 87(2)(b) were in had any specific interaction with PO Kavka before he struck § 87(2)(b). None of the officers PO Kavka was with responded to him striking § 87(2)(b). § 87(2)(b) stated she yelled at the officers “Do you condone what they did? You saw what he did. Do you condone that?” to which these officers said, “Yeah, we do. We stand by him.” § 87(2)(b) also began yelling at PO Kavka, saying, “How dare you do that? She didn’t do anything to you. Why do you think that she deserves for you to do something like that?”, at which point PO Kavka moved behind the line of officers, as if he was hiding from the protesters. Other members of the protest began yelling at PO Kavka; at this, the officers in the line began pushing the protesters back [BR07].

§ 87(2)(b) testified that, sometime between 5:00 p.m. and 6:00 p.m., she and the protesters she was with were attempting to hold a line parallel to that of the officers. She stated that the protest had yet to become violent at this point, although tensions were rising. § 87(2)(b) was in the front of the line when she observed an officer, determined to be PO Kavka, hit a woman, determined to be § 87(2)(b) directly in the face with his baton. § 87(2)(b) covered her face and fell back towards the crowd. § 87(2)(b) was unable to see what PO Kavka did after this [BR08]. § 87(2)(b) provided this testimony to the Attorney General as well, during their investigation into the protests; § 87(2)(b) saw this testimony and informed the investigation that § 87(2)(b) was referring to her [BR09].

PO Kavka testified that on May 30, 2020, he was at the Barclays Center in Brooklyn, following the protest that was coming from the Brooklyn Bridge. PO Kavka followed the protest for about an hour until they reached a standstill in the vicinity of Bedford Avenue and Church Avenue at 3:30 p.m., where protesters in the crowd began to throw cones, bricks, and other pieces of debris at the officers. Protesters were screaming at the officers while they were walking but stated that the officers ignored the protesters and just walked and observed them. PO Kavka was with his supervisors and went back and forth quite a bit, moving around, and could not recall specifically what actions he took at specific times. He stated, upon reaching Bedford Avenue and Church Avenue a supervisor he did not know continually rotated out the officers to different areas in the vicinity of Bedford Avenue and Church Avenue, although he did not recall where exactly he went to. He did not recall if he was at Bedford Avenue and Tilden Avenue that day. He recalled one female screaming at him, “Officer, where is your camera?” during the protest. This individual was on the sidewalk and PO Kavka was in the street, and she had two people standing in front of her. He did not recall if he was able to see her face, but two people were in front of her. He did not recall if the people were shorter or taller than her. She was a black female, but he did not remember what she was wearing and did not believe he would recognize a picture of her. He knew she was calling to him, as she was calling his name. He was about 15 feet from this individual. At one point, this female collapsed; another female moved in front of this protester and put a type of lipstick on her lip, making it appear that she was injured. PO Kavka did not know why she collapsed on the ground, as he was not paying attention. He did not know if any civilians commented on this female collapsing or the makeup that she put on her face. He did not know if another officer made contact with her before she fell to the ground and did not make physical contact with her himself. He stated that after the female collapsed, other individuals in the crowd began shouting after him, asking him why he hit her, but he did not know why the protesters were saying this and maintained that he did not have any physical contact with this individual. PO Kavka did not strike § 87(2)(b) with a baton during this incident or make any physical contact with her. He did not make any physical contact with § 87(2)(b) during the incident. He did not use his baton at all during the day but held it in his hands while on tour. He did not use his baton to strike anyone that day. PO Kavka was observing the individual for about 15 minutes from when he first noticed her to when she placed the makeup on her. The next day, PO Kavka saw pictures on Instagram of himself posted by an

unknown female who said that he “busted [her] lip”. PO Kavka was shown a photograph of § 87(2)(b) during his interview [BR04], which he stated looked like the individual who collapsed but was uncertain of this [BR10].

No BWC footage received by the investigation captured PO Kavka striking § 87(2)(b) or any other individual, in the face with his baton [BR01 and BR02]

As per Patrol Guide Procedure 221-01, a member of service may use force when it is reasonable to ensure the safety of a member of service or third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. When determining whether force is reasonable, the member of service should consider the nature and severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, MOS, or bystanders, whether the subject is actively resisting custody, attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and condition of the subject in comparison with MOS, subject’s violent history (if known), presence of hostile crowd or agitators, and whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence [BR11].

While PO Kavka maintained that he did not strike any individual in the face, the investigation credits § 87(2)(b) testimony, given the independent testimony of § 87(2)(b) the injuries § 87(2)(b) sustained and subsequently documented, as well the photograph she took of PO Kavka during the incident. Additionally, PO Kavka acknowledged aspects of § 87(2)(b) testimony, such as protesters accusing him of striking her, while testifying that this individual placed makeup on herself to appear injured, a premise the investigation found to be incredible. In addition, § 87(2)(b) photographs of her lip clearly show that neither lipstick or other makeup was used to fake this injury. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (B) Force: An officer used physical force against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.

Allegation (C) Force: Officers used physical force against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.

Allegation (D) Force: An officer struck § 87(2)(b) with a baton at Bedford Avenue and Tilden Avenue in Brooklyn.

§ 87(2)(b) testified that, in response to the other protesters yelling at PO Kavka, the officers present began pushing the protesters back towards the sidewalk. An officer approached § 87(2)(b) and pushed her with her baton, held horizontally, on her chest. Prior to this, § 87(2)(b) heard the officer tell her to get on the sidewalk once, but she was unable to do so, given how crowded the sidewalk was. The officer pushed § 87(2)(b) to the ground, pinning her down by her chest. She repeatedly told § 87(2)(b) to get behind the barricade, located in front of the sidewalk, to which § 87(2)(b) responded that she was unable to, as the officer was pinning her down. After an unknown amount of time, another protester, whom § 87(2)(b) did not know, pulled her behind the barricade by her bookbag. She was able to get onto the sidewalk after this and did not have any further contact with this officer [BR05].

§ 87(2)(b) described the officer who pinned her down as a Hispanic female, in her mid-twenties to early thirties, standing under 5’5” tall, with brown hair and brown eyes, in a standard police

uniform equipped with riot gear. She was unable to get any other identifying information, such as name or shield number, from the officer [BR05].

§ 87(2)(b) testified that, as result of the officers chanting and yelling at PO Kavka for hitting § 87(2)(b) a line of officers began to push the protesters to the sides of the streets, where construction barricades had been set up. One officer pushed § 87(2)(b) with his baton held horizontally by his waist, contacting the side of § 87(2)(b) body. He could not recall the physical description of the officer who pushed him. He stated that he did not sustain any injuries because of this. § 87(2)(b) hopped over one of the barricades and onto the sidewalk and grabbed § 87(2)(b) who also jumped over the barricade. Shortly after this, § 87(2)(b) got a migraine and left the protest [BR07].

§ 87(2)(b) testified that, while she was at Bedford and Tilden Avenue, she observed multiple officers pushing protesters with their batons. At one point, an officer hit her on her forearm with his baton, but she was unable to provide a physical description of this officer [BR08].

No BWC video received by the investigation captured § 87(2)(b) being pushed to the ground and subsequently pushed down by an officer. No BWC video captured either § 87(2)(b) being pushed by an officer or § 87(2)(b) being struck with a baton. [BR01 and BR02].

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation (E) Discourtesy: An officer spoke discourteously to § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.

PO Bradshaw's BWC captures audio at 13:37 minutes of an individual, possibly an officer, say, "I don't give a fuck". The statement is made off camera. § 87(2)(b) can be standing in the front of the line when this statement is made [BR13].

§ 87(2)(b) did not testify as to whether any officer made the statement, "I don't give a fuck" while she was at the protest [BR05].

PO Bradshaw did not recall if any officer used discourteous language while he was on scene. After reviewing his BWC footage, he was unable to identify the voice of the person saying, "I don't give a fuck" and could not verify if it was an officer making this statement. He stated that it was not his voice [BR16].

§ 87(2)(g)
[REDACTED]

Allegation (F) Force: Chief of Department Terence Monahan participated in the use of force against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.

Allegation (G) Force: Assistant Chief Brian Conroy used physical force against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.

Chief Monahan testified that on May 30, 2021, he heard an unidentified officer make a 10-13 radio transmission from an unknown location, stating that the call may be “the last transmission” he will make. Chief Monahan later received confirmation from Inspector Romera, the Commanding Officer of the 71st Precinct, that the call came from the intersection of Bedford Avenue and Tilden Avenue, and he subsequently responded to the location, arriving at around 6:00 p.m. Upon arriving, Chief Monahan observed approximately 100 officers with 100 civilians. Upon arriving, Chief Monahan became the highest-ranking officer on scene, which up to that point was AC Conroy. He did not know which instructions were already in effect when he arrived on scene. By the time Chief Monahan arrived, officers on scene were already lined up in a “U” shape at the intersection with protestors on the outside of this “U” shape. There were no barricades on the street at this location. The goal of using this formation was for the police to keep the crowd of civilians out of the intersection—not to contain civilians inside of any area. He did not know, and did not learn later, which officer issued the order for this tactic. Chief Monahan had never seen this “U” shape formation used before in his tenure at the NYPD. Unidentified officers told Chief Monahan that prior to his arrival, the members of the crowd had dragged NYPD officers out of their marked police vehicles and into the crowd, and that these officers had to be rescued from the crowd by other officers. Chief Monahan did not personally witness this. Also on scene was Public Advocate Jumaane Williams, who informed Chief Monahan that the protestors were intending to march along Bedford Avenue. Chief Monahan then ordered the officers on scene to form a straight line along Bedford Avenue, separating the protestors from the row of the NYPD vehicles. During these conversations, protestors threw multiple bottles at officers, one of which struck a protester in the head and injured them, which Chief Monahan personally witnessed. Beyond this, Chief Monahan did not see any visible injuries to any civilians or officers during this incident. At approximately 6:30 p.m., the officers pulled back from the U-shape to allow the protestors to continue marching. At approximately 7:00 p.m., remaining protestors refused to march down Bedford Avenue, linking arms and remaining stationary. The officers then closed off Bedford Avenue by forming a line; no protestors attempt to pass the officers after this and began marching in the opposite direction. As the protestors were marching, they passed an abandoned police vehicle, which some of the protestors began smashing. Officers on scene began conducting forcible takedowns to arrest these individuals, although Chief Monahan did not issue orders for these arrests to be made or for force to be used. He did not issue any officers any instructions for the remainder of his time at Bedford Avenue and Tilden Avenue. Aside from the forcible takedowns and some pushing of civilians by officers (which he described as “minimal”), Chief Monahan did not observe officers using any other physical force [BR21].

Assistant Chief Conroy testified that he was stationed at the Patrol Borough Brooklyn South stationhouse when he was informed by Captain Zelikov that the ongoing protest at Park Side and Ocean Avenue was much larger than they had anticipated; he did not provide AC Conroy with any additional information, such as what the protestors were doing. Upon arriving at the scene, he observed approximately 1,000 protestors gathered; 16 officers had initially been assigned to cover the protest, but additional officers began arriving on scene as backup. At 2:00 p.m., the protestors began walking in the streets, with the officers, including AC Conroy, following them. When the protestors reached the intersection of Bedford and Tilden Avenue, other groups of protestors joined the initial group of approximately 1000 protestors. AC Conroy could not approximate how many additional protestors joined the initial group. At this point the protestors stopped in the street and lined up in front of the police. Some protestors began to throw objects from the back of the group of

protestors. At some point protestors lit a police car on fire. To this point in time, AC Conroy instructed officers to get the protestors out of the street and onto the sidewalks. AC Conroy did not remember who he gave these orders to specifically but issued these instructions to whichever officers were near him. AC Conroy asked elected officials on scene, including Public Advocate Jumaane Williams, if they would be able to speak with the crowd and calm them down. He also attempted to speak with the crowd, asking them if they wanted to continue marching, but both he and the elected officials were met with yelling and cursing from the protestors. The officers on scene, including AC Conroy, were asking the protestors to get behind some of the barriers the officers erected and to get onto the sidewalk. AC Conroy did not believe that an LRAD was used to message the protestors. Initially, for a short time, some of the protestors complied with the officers. AC Conroy stated that he gave the instructions for officers to move protestors onto the sidewalk and behind the barriers so that the protestors could clear out of the intersection, as this was becoming a “dangerous situation for those officers who were standing at that intersection.” AC Conroy told the officers to set up the barricades and to ask the protestors to get onto the sidewalk, behind the barriers. He did not see any officers use force at this point to get the protestors onto the sidewalk. AC Conroy did not see pepper-spray being used at this point, nor did he instruct anyone to use pepper-spray. While at Bedford and Tilden Avenue, protestors began throwing objects at the officers, including rocks, bricks, bottles, garbage, and objects from construction sites; AC Conroy stated he was struck by some of the objects, but refused to specify which objects or when. It was at this point that AC Conroy gave instructions to get the crowd onto the sidewalk and to disperse. AC Conroy denied instructing officers to use force to get protestors onto the sidewalks at Bedford Avenue and Tilden Avenue. He denied instructing officers to push or use pepper-spray against protestors to get them onto the sidewalk and denied doing so himself. While at Bedford Avenue and Tilden Avenue, he spoke with Chief Monahan about the best way to communicate with the protestors; Chief Monahan did not issue any instructions regarding how to handle the protestors [BR22].

As of May 30, 2020, Chief Monahan was the acting Chief of Department of the NYPD. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

While the investigation determined that both Chief Monahan, as the highest-ranking officer at Bedford and Tilden Avenue, and AC Conroy, the commanding officer who issued to order for NYPD officers to move the protestors onto the sidewalk, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (H) Force: Police Officer Salvatore Annunziata used physical force against an individual at Bedford Avenue and Tilden Avenue in Brooklyn.

Allegation (I) Force: Police Officer Tyler Bradshaw used physical force against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.

Allegation (J) Force: Police Officer Michael Haber used physical force against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.

As a result of the information § 87(2)(b) provided, the investigation received the BWC footage from multiple officers on scene, which captured various officers using force

PO Annunziata’s BWC shows § 87(2)(b) apparently gesturing and saying something to him at

00:41 minutes, which is not captured due to the lack of audio. At 00:52 minutes, PO Annunziata pushes the female on § 87(2)(b) left, who is wearing a white t-shirt and goggles, with his baton, held horizontally, four times, causing her to fall back [BR12].

PO Bradshaw's BWC shows him walking towards a group of protesters with his baton held horizontally at 15:28 minutes, contacting the stomach of the man in front of him, saying "move back" repeatedly. At 17:38 minutes, PO Bradshaw seems to push a white male individual wearing all black. The male falls to the ground and other civilians help him up [BR13].

PO Haber's BWC shows the officer standing with a group of officers, who begin to charge towards a group of protesters at 8:59 minutes. The officers yell at the protesters to move back. PO Haber holds his baton horizontally outstretched, using it to push protesters back. From 17:15 minutes to 17:59 minutes, PO Haber is seen involved during a melee between officers and protesters, in which multiple officers are seen pushing protesters, however it is difficult to see exactly what specific actions which officers are taking [BR14].

PO Annunziata testified that he was initially assigned to cover a protest at Ocean Avenue and Parkside Avenue, but moved to Tilden Avenue and Bedford Avenue after receiving multiple 10-13 calls, which is an officer request for immediate backup. Upon arriving on scene, he observed 800 to 1000 protesters surrounding officers, screaming obscenities, as well as throwing objects at the officers, such as bricks and bottles. The officers who were on scene had formed a line facing the protesters, which PO Annunziata stated was a tactic they were taught at the police academy to deal with protesters. He joined the line of officers and began issuing verbal commands for the protesters to step back, which they were not compliant with. At one point, a supervisor on scene, whom PO Annunziata did not know, instructed the officers to move the protesters off the street and onto the sidewalk. PO Annunziata, along with the other officers, used his baton held horizontally to move the protesters back. His baton contacted only one protester on scene, in her chest to abdomen area, causing her to move back a couple of steps before stepping onto the sidewalk. He did not use his baton on any other protesters in the vicinity of Bedford and Tilden. After reviewing the above BWC footage, he stated that the video captured his interaction with this protester, as she was not complying with his orders to step back, which the audio of the BWC did not capture. He stated that he used his baton due to the supervisor's orders to get the protesters out of the street [BR15].

PO Bradshaw testified that he responded to a 10-13 at Bedford Avenue and Tilden Avenue; shortly after arriving, he was instructed by a supervisor, he did not recall who, to form a line with other police officers. Hundreds of protesters were on scene, some of whom were throwing bricks and bottles at the officers. At one point while in the line, the protesters began moving towards the officers, who responded by advancing as well. PO Bradshaw and the other officers began guiding the protesters back towards the sidewalk, which he described as using his baton, held horizontally with two hands, to push the protesters in the direction of the sidewalk. While doing so, the protesters were yelling and screaming at the officers, but PO Bradshaw did not remember any specific interaction he had with any protesters. He did not take any other actions with his baton aside from using it to push protesters towards the sidewalk. Upon reviewing the above BWC footage, he stated that the force captured was the action he described with his baton. He testified that he and the other officers used their batons at the instruction of a supervisor on scene. Upon seeing the footage of the individual falling, he stated that he was still under instruction to push the protesters back and that, due to how many people there were and how chaotic the scene was, he was unaware that someone had fallen [BR16].

PO Haber testified that he and group of about twenty other officers followed a large group of protesters from Ocean Avenue and Parkside Avenue to Bedford and Tilden Avenue, where they

were subsequently surrounded and outnumbered by hundreds of protesters. The protesters threw various objects at the officers, including bricks and cinderblocks. After an unknown time, additional officers responded to the scene to assist PO Haber and other officers. PO Haber took out his baton, holding it horizontally across his chest, using it as a barrier between himself and the protesters, and walked forward to guide the protesters back. He did not recall if his baton made physical contact with any protesters but believed it did. He also issued verbal commands for the protesters to step back, which they were generally not compliant with. He stated that, at one point, a protester on a bicycle struck a police officer, knocking him down and going on top of him. PO Haber, as well as a couple other officers, had to push protesters who had gathered out of the way so that he could help up the officer and arrest the cyclist. After reviewing the BWC footage at 8:55 minutes, PO Haber stated that at the point in the video, a protester had maced the officers and the subsequent force used was to get the protesters back and away from the officers. He did not know how many officers were maced. He additionally testified that the force captured in the video at 16:55 minutes was the incident he described with the officer being struck with a bicycle [BR17].

PO Haber, PO Annunziata, and PO Bradshaw all testified that they began pushing protesters off the street after receiving orders from supervision to clear the protesters from the street. As discussed in Allegation F and G, it was determined that the use of batons in doing so was in result to orders issued by Chief Monahan and Assistant Chief Conroy. However, both Chief Monahan and AC Conroy in their testimony stated that they did not issue orders to use force in moving the protesters.

§ 87(2)(g)

Allegation (K) Force: Police Officer Anthony Carolei used pepper spray against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.

PO Carolei's BWC shows him standing with about twenty other officers on a street corner, when he begins to approach the group of protesters in the street at 6:49 minutes. He says "step back" multiple times to the group, holding his baton outstretched horizontally and moving through the crowd. At 6:57 minutes, PO Carolei pepper sprays the crowd, hitting several protesters, deploying it three times in succession, and once again at 7:11 minutes [BR18].

PO Carolei testified that he recalled using his pepper spray when he was at Bedford Avenue and Tilden Avenue, but did not recall when or in what context he used it. He did not recall how many times he used it. He did not recall if any of the pepper spray contacted any protesters. After reviewing his BWC, PO Carolei acknowledged seeing himself use pepper spray, but again could not provide the context in which he used the pepper spray. He was unable to attribute anything in the video that would have caused him to use pepper spray and did not recall why he used pepper spray in the instance [BR19].

According to Patrol Guide Procedure 221-07, O.C. pepper spray may be used to gain or maintain control of persons who are actively resisting arrest or lawful custody or exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of service, or other persons. Members of service should avoid discharging O.C. pepper spray indiscriminately over a large area for disorder control [BR20].

PO Carolei could not provide any reasoning or context as to why he deployed pepper spray during the protest and the BWC footage does not depict any actions taken by the protesters that would have warranted such force, which PO Carolei himself acknowledged. Additionally, it appears from the footage that PO Carolei deploys the pepper spray across the entire group, rather than attempting

to gain compliance from one individual, § 87(2)(g)

Allegation (L) Force: Officers used physical force against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.

Allegation (M) Force: An officer used pepper spray against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.

Allegation (N) Force: Officers used pepper spray against individuals at Bedford Avenue and Tilden Avenue in Brooklyn.

Allegation (O) Force: An officer used physical force against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.

Allegation (P) Force: An officer used physical force against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.

Allegation (Q) Force: An officer used pepper spray against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.

§ 87(2)(b) testified that later in the day, at around 7:30 p.m., she was on Bedford Avenue between Tilden Avenue and Albermarle Road, where she observed officers pushing people as they were walking on the street to get them moving faster, as well as arresting protesters, seemingly at random. She did not know any of the protesters being pushed and was unable to estimate how many officers did this and what they looked like. § 87(2)(b) remained in the area and, at approximately 8:30 p.m., she was pepper sprayed. She stated this happened suddenly, as she was standing with a group of protesters and observed officers chasing after other protesters. She did not remember what happened directly before she was pepper sprayed but remembered feeling the spray on her hair and neck, as well as seeing it on her bookbag. She continued walking in the area; while doing so, she was pushed on two separate occasions. She was pushed once by an officer, seemingly at random, whose description she was unable to provide. The second time, § 87(2)(b) friend had fallen on the ground while running from officers. As she attempted to help her friend up, an officer pushed § 87(2)(b) back repeatedly, causing her to fall back to the ground, and attempted to grab her friend. She was unable to tell if the officer was using his hands or his baton to push her. § 87(2)(b) told the officer that they were leaving the protest, at which point the officer walked away. She and her friends remained at the protest until about 10:00 p.m., when § 87(2)(b) was pepper sprayed a second time, although she did not state where the pepper spray made contact. She and her friends left the protest soon after that. § 87(2)(b) was unable to provide physical descriptions of the officers who pushed her or either of the officers who pepper sprayed her [BR05].

None of the BWC footage received by the investigation for this incident captured the alleged force [BR01 and BR02].

§ 87(2)(g)

Allegation (R) Force: An officer used pepper spray against § 87(2)(b) at Bedford Avenue and Tilden Avenue in Brooklyn.

Allegation (S) Force: Officers used physical force against § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.

Allegation (T) Force: Officers used physical force against § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.

§ 87(2)(b) stated, at approximately 8:20 p.m., she and her friends encountered § 87(2)(b) who

had previously been pepper sprayed by an officer. She did not know § 87(2)(b) prior to this incident. § 87(2)(b) did not witness this, and § 87(2)(b) did not provide any information regarding the officer that did. She and her friends remained with § 87(2)(b). About thirty minutes later, § 87(2)(b) saw § 87(2)(b) arrested by who she believed to be a lieutenant, as she was wearing a white shirt, who grabbed him and pulled him to the ground. She stated it appeared that § 87(2)(b) had been randomly arrested and that, prior to this, he had been walking back and forth with his hands up in front of a line of officers, crying that he wanted to go home. § 87(2)(b) was unable to provide a description of this lieutenant, aside from that she was female and was wearing a white shirt. § 87(2)(b) obtained § 87(2)(b) contact information, but did not provide it during her interview, as she wished to seek § 87(2)(b) consent before doing so [BR05].

The investigation was unable to contact § 87(2)(b) regarding this incident. § 87(2)(b) attorney, § 87(2)(b) provided his notarized statement to the investigation. In the statement, § 87(2)(b) alleged that, while marching with protesters at Bedford Avenue and Church Avenue, multiple NYPD officers appeared and began conducting forcible takedowns of protesters. Officers grabbed § 87(2)(b) and pulled him to the ground. Once on the ground, the officers stomped and kicked § 87(2)(b) after which he was subsequently handcuffed. He stated that he sustained cuts and bruises over his body because of this. § 87(2)(b) was then transported to 1 Police Plaza, where he was issued a desk appearance ticket (DAT), although he did not recall what for, which was eventually dismissed. He only provided the ethnicities of the officers involved, which he described as being of black, Hispanic, and white officers [BR25].

Two separate requests for § 87(2)(b) (DAT) yielded negative results [BR26 and BR27].

None of the BWC footage received by the investigation for this case captured § 87(2)(b) arrest [BR01 and BR02].

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (U) Force: Police Officer Mateusz Wybraniec used physical force against § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.
Allegation (V) Force: Police Officer Anthony Carolei used physical force against § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.

While the investigation did not obtain a full statement from § 87(2)(b) the BWC footage received as a result from parts of his complaint captured the following FADOs from PO Carolei and PO Wybraniec's BWC.

PO Carolei's BWC opens with him standing in front of § 87(2)(b) who identifies himself by spelling his full name out at 2:07 minutes. At 2:27 minutes, § 87(2)(b) says, "Yo bro, you good? Yo bro they punched me, kicked me, kept banging my head on the floor. Fuck. Yo, put me in a cage. One of yall n****s are 7-0." PO Carolei stands right beside § 87(2)(b) and appears to be holding down his left shoulder, possibly using his baton but it is unclear. At 5:24 minutes, PO Carolei says, "Stop moving, bro, please." At 5:38 minutes, PO Carolei says, "Yo, stop moving, bro. We have to secure you. No, bro." § 87(2)(b) says, "secure me for what?" to which PO Carolei says, "That's it, man." PO Carolei adds, "Stop moving. We don't want to put you down on the floor. Stop. Stop. Stop." It is not clear from the video how, if at all, § 87(2)(b) is moving. At 5:54,

PO Carolei says, “down” and then takes § 87(2)(b) to the ground, assisted by PO Wybraniec. § 87(2)(b) is lying face down on the ground and an officer, possibly PO Carolei says, “Put him on the side.” At 6:02 minutes, PO Carolei says, “Stop. Stop moving” although it is unclear how § 87(2)(b) is moving. § 87(2)(b) lies on the ground on his back with his knees bent in front of him. PO Carolei holds his baton out and holds down § 87(2)(b) left knee while he is on the ground [BR28].

PO Wybraniec’s BWC captures similar footage to PO Carolei’s BWC. He is seen standing on the right of § 87(2)(b) seeming to hold onto his right arm while they stand in the middle of the street. At 2:18 minutes § 87(2)(b) says, “this hurts”, although it is unclear what he is referring to. At 2:30 minutes, there seems to be blood captured on § 87(2)(b) right shoulder. At 3:28 minutes, PO Wybraniec tells § 87(2)(b) to face a certain way and as he turns PO Wybraniec says, “See, you’re doing it to yourself.” At 4:04 minutes, PO Wybraniec says, “you keep moving.” § 87(2)(b) says, “Secure me from what? Secure me from what? Get off of me.” PO Wybraniec continues to hold onto § 87(2)(b) right arm and then also holds his right shoulder. At 4:16 minutes, PO Wybraniec says, “If you keep moving, you’re gonna go to the ground. You want that?” At 4:18 minutes, PO Wybraniec takes § 87(2)(b) to the ground with PO Carolei. He seems to maintain contact with § 87(2)(b) right arm and seems to push § 87(2)(b) face down onto the ground during the takedown. Once on the ground, PO Carolei says, “Put him on his side” and then crouches by § 87(2)(b) while PO Wybraniec stands up [BR29].

PO Carolei testified that he and PO Wybraniec first encountered § 87(2)(b) when they were directed by a supervisor at Bedford Avenue and Church Avenue to escort him to a transport van. He did not recall the rank of the supervisor or any other commands issued by this supervisor. He did not have any prior interaction with § 87(2)(b) who was already handcuffed. He did not know who handcuffed him and did not observe this. PO Carolei stated that § 87(2)(b) was recalcitrant with the officers, shaking his arms by moving his shoulders left and right and refusing to relax when the officers directed him to do so. PO Carolei stated he was fearful that § 87(2)(b) might escape, as he was walking in the opposite direction the officers were trying to escort him in. No other officers aside from him and PO Wybraniec assisted in escorting § 87(2)(b). PO Carolei held onto § 87(2)(b) under bicep, but he did not recall from which side or with how many hands. He did not recall where PO Wybraniec was holding him or if he was making any physical contact with § 87(2)(b). As § 87(2)(b) continued moving, despite the officers instructions to stop doing so, and due to his fear that he might escape, PO Carolei and PO Wybraniec determined to conduct a forcible takedown, holding § 87(2)(b) by his arms and directing him in a downwards motion towards the ground. § 87(2)(b) landed on his stomach, with his left side of face pressed to the ground. He stated that § 87(2)(b) was taken to the ground to further secure him; there was no other reason he was taken to the ground. After reviewing his BWC, PO Carolei confirmed that § 87(2)(b) was taken to the ground because he was resisting the officers and that there was no other reason for the force used [BR19].

PO Wybraniec’s testimony was largely consistent with PO Carolei’s. He stated that, while escorting § 87(2)(b) who was already handcuffed, § 87(2)(b) flailed his arms, moving them back and forth, cursing, screaming, and making his body dead-weight. PO Wybraniec did not remember what § 87(2)(b) was saying. § 87(2)(b) was also spitting, but PO Wybraniec did not remember if the spit made contact with him; he did not prepare an exposure report. At one point, PO Wybraniec, PO Carolei, and § 87(2)(b) went down to the ground. He did not remember if this was a voluntary takedown. He did not remember what caused them to go to the ground and did not remember the context they went to the ground. He remembered § 87(2)(b) making his body dead weight before falling to the ground. He stated it was possible that § 87(2)(b) caused him to go to the ground but did not recall. He did not remember if he used any force to get § 87(2)(b) to the ground. After

viewing his BWC of the incident, PO Wybraniec stated that the footage did not refresh his recollection of how they went to the ground, but that the reason they went to the ground was “because of the way § 87(2)(b) was acting”. He stated he did not believe that he used force to take § 87(2)(b) to the ground. He did not know if PO Carolei used force to take § 87(2)(b) to the ground [BR30].

As per Patrol Guide Procedure 221-01, a member of service may use force when it is reasonable to ensure the safety of a member of service or third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. When determining whether force is reasonable, the member of service should consider the nature and severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, MOS, or bystanders, whether the subject is actively resisting custody, attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and condition of the subject in comparison with MOS, subject’s violent history (if known), presence of hostile crowd or agitators, and whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence [BR11].

While PO Carolei and PO Wybraniec testified that § 87(2)(b) was resisting the officers, it appears from the BWC footage that any resistance, if any, was minimal and passive. Additionally, given that § 87(2)(b) was already handcuffed, that both PO Carolei and PO Wybraniec were holding onto § 87(2)(b) in addition to the multitude of other officers on scene, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (W) Force: Police Officer Anthony Carolei used a chokehold against § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.

Allegation (X) Force: Police Officer Mateusz Wybraniec used physical force against § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.

Allegation (Y) Discourtesy: Police Officer Anthony Carolei spoke discourteously to § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.

Allegation (Z) Discourtesy: An officer spoke discourteously to § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.

PO Carolei’s BWC at 6:09 minutes shows PO Carolei grab onto § 87(2)(b) neck and possibly his torso and flips him over. The crowd yells in the background although their specific statements besides, “NO” still cannot be heard. At 6:20 minutes, § 87(2)(b) is only partially captured on the lower left of the screen, but PO Carolei can be seen with his hand around § 87(2)(b) neck as he lies face down on the ground. Someone can be heard yelling, “You’re gonna fucking break his neck, you motherfucker” in the background. § 87(2)(b) remains on the ground face down and says, “Get off of me” multiple times. At 6:49 minutes, PO Carolei says, “You kicked him right in the fucking head. Yo, go out bro”, referring to PO Wybraniec. At 7:10 minutes, § 87(2)(b) says “Ow” and groans in pain multiple times as PO Carolei is holding onto him. It is unclear how PO Carolei’s he is holding onto § 87(2)(b) at this point. At 7:21 minutes, PO Carolei says, “Get us fucking out of here, man.” At 7:49 minutes, § 87(2)(b) adjusts his body such that he is on his side facing PO Carolei and PO Carolei holds onto § 87(2)(b) upper left arm. § 87(2)(b) says, “I’m on the floor. Can you stop pressing down on my arm please?” PO Carolei says, “Bro. You’re staying right here. You’re not moving” [BR28].

PO Wybraniec’s BWC captures similar footage as PO Carolei’s. At 4:38 minutes, while § 87(2)(b)

§ 87(2)(b) lies face down on the ground, PO Wybraniec reaches out, crouches down, extends his arms, and pushes § 87(2)(b) lower back, holding him in place on the ground. PO Wybraniec remains on the ground, holding § 87(2)(b) down while he groans although it cannot be seen what part of his body he or PO Carolei make contact with. Based on their relation to each other, it seems PO Wybraniec holds § 87(2)(b) down near his lower body while PO Carolei holds down his upper body. Both officers are crouched down on the street. At 6:53 minutes, PO Wybraniec tells § 87(2)(b) to get up which he does and asks if he can get his shoe. At 4:22 minutes, an officer can be heard off screen yelling, “Stop fucking moving” [BR29].

PO Carolei testified that, upon going to the ground with § 87(2)(b) he landed on his knees to the side of § 87(2)(b) body, attempting to secure his upper torso. PO Wybraniec was positioned towards § 87(2)(b) legs, standing bent over § 87(2)(b) PO Carolei stated that, to secure § 87(2)(b) torso, he placed his left hand on § 87(2)(b) shoulder and his right hand was on his arm. He did not contact § 87(2)(b) neck during this and did not place him in a chokehold. He did not recall if PO Wybraniec had any physical contact with § 87(2)(b) PO Carolei stated that he did not take any other actions against § 87(2)(b) PO Carolei told § 87(2)(b) to stop resisting the officers and to stop moving, as “everything is over with”. He did not recall using profanity while speaking with § 87(2)(b) At one point, § 87(2)(b) “scissor-kicked” upwards, using his left leg to proper forward his right leg, kicking PO Wybraniec in the face. PO Carolei did not recall how long he and § 87(2)(b) were on the ground for, but stated he rolled § 87(2)(b) onto his side and, once he stopped moving, sat him up [BR19].

After reviewing his BWC footage, PO Carolei stated that he still did not recall making contact with § 87(2)(b) neck and that he did not place § 87(2)(b) in a chokehold. He stated that there was nothing he observed in the video that § 87(2)(b) did that would have led him to place his hands on § 87(2)(b) neck. The investigation played the footage again and directed PO Carolei’s attention to his hand on § 87(2)(b) neck. PO Carolei again refuted that he had his hand on § 87(2)(b) neck stating that his hand was on his upper shoulder, between his shoulder blades, and not his neck. He acknowledged saying, “You kicked him right in the fucking head” and “Get him fucking out of here” and stated that he made this statement because he believed he was talking to his supervisor and had high emotions, as his partner just got kicked in the face. He explained that he used profanity due to his high emotions of the situation and for no other reason. PO Carolei could not identify the officer who makes the statement, “stop fucking moving” [BR19].

PO Wybraniec testified that he did not remember how § 87(2)(b) was positioned on the ground. He was to § 87(2)(b) side, but he did not recall exactly where. He did not remember where he was contacting § 87(2)(b) if anywhere. PO Carolei was with him, but he did not see what actions PO Carolei took to get § 87(2)(b) to the ground, if any. He did not remember how PO Carolei was positioned in relation to § 87(2)(b) while on the ground. He did not remember if PO Carolei made any contact with § 87(2)(b) neck during this or if he placed § 87(2)(b) in a chokehold. While on the ground, § 87(2)(b) kicked PO Wybraniec in the face, but he did not recall where in the face he was struck and that § 87(2)(b) did so intentionally. PO Wybraniec eventually went line of duty (LOD) leave for this, but did not state how long he was on leave for. He did not recall exactly how forceful § 87(2)(b) kicked him, but that it was forceful enough to “daze” him. He did not learn later if there was bruising or swelling. He was checked out by EMS for this kick but did not recall what they told him about it. PO Wybraniec did not remember if § 87(2)(b) said or did anything that indicated he was having trouble breathing or that someone was contacting his neck. He did not remember if he used any profanity during this or if PO Carolei used profanity. He did not remember what § 87(2)(b) was saying while on the ground, as the protest going on was loud [BR30].

A LOD report was prepared for PO Wybraniec, which stated that he sustained swelling and redness to the left side of his face and neck as a result of being kicked in the face while transporting § 87(2)(b) [BR31].

PO Wybraniec was shown his BWC footage of the incident but stated that the video did not refresh his recollection of how he was positioned in relation to § 87(2)(b) or if PO Carolei made physical contact with his neck. PO Wybraniec did not see himself on screen and did not recall where he was in relation to PO Carolei. He did not recall PO Carolei contacting § 87(2)(b) neck after reviewing the footage. He did not know who made the statement “stop fucking moving” [BR30].

As per Patrol Guide Procedure 221-01, a member of service may use force when it is reasonable to ensure the safety of a member of service or third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. When determining whether force is reasonable, the member of service should consider the nature and severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, MOS, or bystanders, whether the subject is actively resisting custody, attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and condition of the subject in comparison with MOS, subject’s violent history (if known), presence of hostile crowd or agitators, and whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence. A member of service is prohibited from using a chokehold [BR11].

As per Patrol Guide Procedure 203-09, members of service must interact with members of the public in a professional manner [BR32].

In DAO-DCT Case #2017-17276, the Honorable Paul M. Gamble ruled that language which would ordinarily be inappropriate in dealing with civilians may be excused in the course of a violent confrontation [BR33].

While PO Carolei maintained that he did not place § 87(2)(b) in a chokehold, but rather had his hand on his shoulder, it is evident from the BWC footage that his hand was on § 87(2)(b) neck while they were on the ground, § 87(2)(g)

§ 87(2)(g) § 87(2)(b) was kicking at the officers, which PO Wybraniec was injured because of, § 87(2)(g)

As § 87(2)(b) was kicking at the officers while on the ground, and at one point struck him in the face, § 87(2)(g)

While an officer can be heard cursing on the BWC footage, it cannot be seen who makes these remarks. § 87(2)(g)

Allegation (AA) Abuse of Authority: Police Officer Anthony Carolei did not obtain medical treatment for § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.

Allegation (AB) Abuse of Authority: Police Officer Mateusz Wybraniec did not obtain medical treatment for § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.
Allegation (AC) Abuse of Authority: Police Officer Mateusz Wybraniec threatened § 87(2)(b) with the use of force at Bedford Avenue and Church Avenue in Brooklyn.
Allegation (AD) Abuse of Authority: Police Officer Mateusz Wybraniec refused to provide his shield number to § 87(2)(b) at Bedford Avenue and Church Avenue in Brooklyn.

PO Carolei's BWC shows him saying "You just kicked one of my partners. That's not happening. You're not moving.", to § 87(2)(b) at 8:07 minutes. PO Carolei instructs § 87(2)(b) to sit up and turn over which he does. PO Carolei says he needs an escort and begin to walk § 87(2)(b) down the street at 8:52 minutes. At 9:20 minutes, § 87(2)(b) says, "I need medical attention." Then, he yells, "I need medical attention!" two times as they walk by an ambulance. At 9:51 minutes, when they arrive in front of a marked police van, § 87(2)(b) yells two more times, "I need medical attention." PO Carolei does not say anything in response. § 87(2)(b) says that his neck hurts, which PO Carolei is holding onto on his left side. PO Carolei stands outside the van with § 87(2)(b). At 11:34 minutes, § 87(2)(b) says two times, "I need medical attention." PO Carolei says nothing in response. An ambulance can be seen on the corner ahead of where they stand, where they remain until 22:25 minutes. At 22:25 minutes, PO Carolei tells § 87(2)(b) he is going in the van. He opens the door and another officer grabs § 87(2)(b) arm after which they push him into the van. PO Carolei closes the door of the van. PO Carolei points to an officer while standing outside of the van and says, "He kicked him in the head" after which his BWC shuts off [BR28].

PO Wybraniec's BWC footage captures similar footage as PO Carolei's BWC. At 7:43 minutes, they approach a parked ambulance and § 87(2)(b) says, "I need medical attention." He says again, louder this time, "I need medical attention" three times. The officers do not say anything in response. They approach a police vehicle and at 8:15 minutes, § 87(2)(b) says, "I need medical attention. I need medical attention. I know y'all hear me". At 8:24 minutes, he says, "My neck hurts. My neck. My neck!! Get your hand off my neck." At 10:00 minutes, § 87(2)(b) says again two times, "I need medical attention" to which the officers do not say anything. PO Wybraniec has his arm outstretched and seems to be holding § 87(2)(b) left shoulder down. At 12:08 minutes, § 87(2)(b) says, "Yo, can you stop?" and PO Wybraniec responds, "No, I can't." PO Wybraniec continues to stand with § 87(2)(b) at 13:29 minutes, PO Wybraniec says, "You're trying to bite? You're trying to bite now? You wanna go back on the ground?" It appears that § 87(2)(b) is not biting. § 87(2)(b) says, "I don't bite n***as. Why I can't I see your body cam? Why can't your body cam see my face? Move your hand. What are you doing? You're trying to lie and say I bite you. Look where my mouth is. You see this? Where can I bite you? How?" While saying this, § 87(2)(b) puts his head forward and his face toward PO Wybraniec's body camera. At 15:30 minutes, § 87(2)(b) says, "I didn't do anything. You pulled me down and beat me. Beat me... Look at my leg. Look at my shoulder. My head. I'm hurt. My back hurts. My front hurts. I can't even talk right now. My leg hurts. I can barely even stand up properly..." At 17:28 minutes, § 87(2)(b) says, "He's blocking his body cam. What's your badge number, sir? Officer, what's your badge number" to PO Wybraniec. PO Wybraniec says, "You could read it." § 87(2)(b) says, "I can't see it. your hand is on my neck." PO Wybraniec says, "My hand is not on your neck it's on your shoulder." § 87(2)(b) says, "you have your elbow blocking your body cam." PO Wybraniec says, "It's to restrain you because you're being violent." At 17:56 minutes, § 87(2)(b) asks again, "What's your badge number, sir?" At 20:53 minutes, an officer opens the door to a marked police van they have been standing in front of and PO Wybraniec pushes § 87(2)(b) back such that he goes into the van. The door to the van shuts and PO Wybraniec's BWC shuts off [BR29].

PO Carolei testified that he did not recall if § 87(2)(b) requested medical attention at any point during the incident. He did not recall if § 87(2)(b) mentioned any injuries or that he was in pain.

He did not recall if observed any injuries on § 87(2)(b) or if he appeared to be in pain. He did not recall if he observed blood on him. He did not recall if PO Wybraniec or any other officer used profanity when interacting with § 87(2)(b). He did not recall how long he was with § 87(2)(b). He stated that he did not threaten § 87(2)(b) with the use of force outside the van and did not recall if any other officer did this. He did not recall if § 87(2)(b) requested PO Wybraniec's name or shield number. He did not recall if PO Wybraniec provided this information or if he refused to do so. He did not recall where § 87(2)(b) was taken after he was brought to the transport van. He did not recall who took over the arrest of § 87(2)(b) or what the outcome of this arrest was. After § 87(2)(b) was transported off scene, PO Carolei and PO Wybraniec resumed patrol of the protest [BR19].

After reviewing his BWC, PO Carolei acknowledged hearing § 87(2)(b) request medical attention, but still did not have an independent recollection of him doing so. He did not recall if he provided § 87(2)(b) with medical attention after reviewing the footage. He stated that generally a handcuffed individual should receive medical attention once they are secured. He did not remember if there was a reason why § 87(2)(b) would not been able to have received medical attention. He did not recall if he refused to provide § 87(2)(b) with medical attention [BR19].

PO Wybraniec testified that that he and PO Carolei picked § 87(2)(b) off the ground by his arms. He did not remember how long § 87(2)(b) was on the ground for. He did not recall seeing blood on § 87(2)(b) once he was lifted up. He did not remember § 87(2)(b) stating that he was injured once he was off the ground or of complaining of any injuries later in the incident. He did not remember if § 87(2)(b) asked for medical attention. PO Wybraniec stated that he did not obtain medical attention for § 87(2)(b) or facilitate getting medical attention for him. After they picked § 87(2)(b) up, they continued to walk him to a transport van. He did not remember if he had any conversation with § 87(2)(b) outside the van. He did not recall if he threatened § 87(2)(b) with the use of force. He did not recall if § 87(2)(b) requested his shield number or if he verbally provided it but stated that his shield number was visible. He stated the incident lasted a few minutes but did not remember the exact time frame. Once § 87(2)(b) was placed inside the transport van, PO Wybraniec did not have any further interaction with him, and he and PO Carolei returned to the protest [BR30].

PO Wybraniec was shown PO Carolei's BWC; after reviewing the footage, PO Wybraniec stated that the footage did not refresh his recollection as to whether § 87(2)(b) requested medical attention. PO Wybraniec did not obtain medical attention for § 87(2)(b) and did not know if any other officer did so. He did not recall if he or PO Carolei informed any other officer that § 87(2)(b) had requested medical attention. PO Wybraniec stated that unless "major" injuries were sustained, medical attention is obtained at the precinct stationhouse. PO Wybraniec was also shown his BWC footage. After reviewing this footage, PO Wybraniec stated that it was possibly his voice who said, "You want to go back on the ground." PO Wybraniec stated at this point, § 87(2)(b) was resisting and was attempting to bite him. He did not know what he meant by this statement but stated that he did not mean he would take him to the ground. PO Wybraniec stated that, from the video, it was unclear who § 87(2)(b) was directing his request for a shield number to, as there were multiple cops in the area, but acknowledged that it was his voice responding to him. He stated that his shield number is always visible but did not remember where he was positioned in relation to § 87(2)(b) at this time. He did not remember if he verbally provided his shield number to § 87(2)(b). He stated that as long as the shield number is visible, then it is provided to the officers [BR30].

As per Patrol Guide Procedure 210-04, when a prisoner in custody requires medical treatment, the arresting officer must request an ambulance, accompany the prisoner to the hospital, and prepare a medical treatment of prisoner form for any prisoner who received medical attention [BR34].

As per Patrol Guide Procedure 221-01, a member of service may use force when it is reasonable to ensure the safety of a member of service or third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. When determining whether force is reasonable, the member of service should consider the nature and severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, MOS, or bystanders, whether the subject is actively resisting custody, attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and condition of the subject in comparison with MOS, subject's violent history (if known), presence of hostile crowd or agitators, and whether the subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence. A member of service is prohibited from using a chokehold [BR11].

As per Patrol Guide Procedure 203-09, a member of service must courteously and clearly state their rank, name, shield number, and command, or otherwise provide them, to anyone who requests they do so [BR32].

While PO Carolei and PO Wybraniec stated that they were not the arresting officers for § 87(2)(b) it is evident that, under the circumstances, they were given responsibility over him when they were instructed to escort him to the transport van. From the BWC footage, it is evident that § 87(2)(b) informs the officers that he is injured and requests medical attention at multiple points to both officers, who do not acknowledge his request and testified that they either did not or were not aware of § 87(2)(b) receiving any medical attention. As PO Carolei and PO Wybraniec were required to ascertain medical attention for § 87(2)(b) and failed to do so, § 87(2)(g)

While PO Wybraniec testified that he was not threatening to take § 87(2)(b) to the ground, the investigation determined that a reasonable person would take the question, "You want to go back on the ground?", to mean just that. Despite PO Wybraniec maintaining that § 87(2)(b) was resisting and attempted to bite him, which is what elicited this statement, it appears that from the BWC footage that § 87(2)(b) is not resisting or attempting to bite PO Wybraniec, as the officer is holding onto his shoulder and arm and § 87(2)(b) is not seen moving either. Furthermore, as § 87(2)(b) was handcuffed and was being held by PO Wybraniec and PO Carolei, in addition to appearing to stand mostly still, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (AE) Force: Sergeant Fitzroy Vigilance used physical force against an individual at Bedford Avenue and Tilden Avenue in Brooklyn.

Allegation (AF) Discourtesy: Sergeant Fitzroy Vigilance spoke discourteously to individuals at Bedford Avenue and Tilden Avenue in Brooklyn.

Sgt. Vigilance's BWC was received by the investigation for this incident. The officer's BWC opens with Sgt. Vigilance walking amongst the protesters in the area of Bedford Avenue and Tilden

Avenue, pushing several protesters while doing so. At 15:41 minutes, there is a commotion in the vicinity of the scaffolding during which Sgt. Vigilance orders, “Take him down” and “Don’t let him get away” while a group of officers grab and push a civilian and then take him to the ground, although specific actions cannot be seen clearly. At 17:12 minutes, as the protester is on the ground being handcuffed, Sgt. Vigilance calls him a “scumbag” [BR35].

§ 87(2)(g)

Allegation (AG) Untruthful Statement: On March 2, 2021, Police Officer Yaroslav Kavka provided a false official statement to the CCRB.

As per Administrative Guide 304-10, a false official statement is defined as an intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made [BR37].

During PO Kavka’s CCRB interview, he testified that he observed an individual who matched § 87(2)(b) description fall to the ground during the incident, at which point an individual covered her with lipstick or some kind of makeup to make it appear that she had been injured. This individual and other protesters began yelling after PO Kavka, accusing him of striking her in the face [BR10]. There is no BWC footage capturing the incident [BR01 and BR02].

§ 87(2)(g)

Allegation (AH) Untruthful Statement: On March 26, 2021, Police Officer Anthony Carolei provided a false official statement to the CCRB.

As per Administrative Guide 304-10, a false official statement is defined as an intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made [BR37].

PO Carolei’s BWC shows the officer applying pressure to § 87(2)(b) neck while they are both on the ground, from 6:09 minutes until 6:49 minutes, at which point it becomes unclear from the BWC how PO Carolei is positioned in relation to § 87(2)(b) [BR28]. During his CCRB interview, PO Carolei repeatedly stated that he did not make physical contact with § 87(2)(b) neck or placed him in a chokehold. The investigation showed PO Carolei his BWC multiple times, directing his attention to his hand placed on § 87(2)(b) neck; upon reviewing his BWC, PO Carolei continued to maintain that he did not place § 87(2)(b) in a chokehold or contact his neck in any way, but rather that the footage shows that his hand is on § 87(2)(b) shoulder [BR19].

Despite PO Carolei’s testimony, it is evident from the BWC footage that his hand is on § 87(2)(b) neck and not his shoulder. This evidence was presented to PO Carolei multiple times, with his attention drawn to the chokehold, and was given multiple opportunities to acknowledge and explain the reason for such force. PO Carolei continued to deny that he placed § 87(2)(b) in a chokehold or contacted his neck. As PO Carolei maintained he did not use a chokehold, despite being presented evidence to the contrary, § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint § 87(2)(b) has been party to [BR38].
- This is the first complaint § 87(2)(b) has been party to [BR39].
- This is the third complaint § 87(2)(b) has been party to [BR40].
- This is the third complaint § 87(2)(b) has been party to [BR41].
- PO Kavka has been a member of service for two years and has no prior CCRB cases. He had two open CCRB cases:
 - Case #202004370, in which a refusal to obtain medical treatment § 87(2)(g)
 - Case #202105142, in which a vehicle stop § 87(2)(g)
- PO Annunziata has been a member of service for five years. He was a subject in one prior CCRB case, which is currently open:
 - Case #202000878, in which two allegations of physical force and a discourtesy – word allegation § 87(2)(g)
- PO Bradshaw has been a member of service for four years and this is the first CCRB complaint he has been party to.
- PO Haber has been a member of service for seven years and has been a subject in one prior CCRB complaint and one allegation, which was not substantiated. § 87(2)(g) He currently has two open CCRB complaints:
 - Case #202004408, in which a physical force allegation § 87(2)(g) and an obstructed shield number § 87(2)(g)
 - Case #202101508, in which a property damaged allegation is pled, is currently under investigation.
- PO Carolei has been a member of service for five years and has been a subject in four CCRB complaints and 12 allegations, none of which have been substantiated. § 87(2)(g) He has one open CCRB complaint:
 - Case #202102137, in which a question and vehicle search allegation is pled, which is currently under investigation.
- PO Wybraniec has been a member of service for three years and has been a subject in one prior CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of October 12, 2021, neither § 87(2)(b) nor § 87(2)(b) filed a Notice of Claim with the New York City Office of the Comptroller for this incident [BR42].
- According to the New York City Office of the Comptroller, § 87(2)(b) filed a Notice of Claim, filed on his behalf by the law firm § 87(2)(b) seeking \$1 million in damages for monetary damages (special, compensatory, punitive) for Constitutional violations, false arrest, false imprisonment, malicious prosecution, denial of right to fair trial, negligence, assault and battery, excessive force, intentional infliction of emotional

distress, negligent infliction of emotional distress, failure to intervene, and negligent retention and hiring [BR43].

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 8

Investigator: Genevieve Lamont SI Genevieve Lamont 01/12/2022
Signature Print Title & Name Date

Squad Leader: Ethan De Angelo IM Ethan De Angelo 1/13/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date